REPLY COMMENTS
OF THE RETAIL ENERGY SUPPLY ASSOCIATION
CONCERNING THE SPRING 2011 ELECTRIC PROCUREMENT EVENTS

I. INTRODUCTION

The Retail Energy Supply Association ("RESA") is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more efficient, customer-oriented outcome than a regulated utility structure. RESA is devoted to working with all stakeholders to promote vibrant and sustainable competitive retail energy markets for residential, commercial and industrial consumers. RESA was an active participant in Ill. C. C. Docket 10-0563, in which the Illinois Commerce Commission ("Commission") entered its order approving, with modifications, the procurement plan of the Illinois Power Agency ("IPA").[1]

In these Reply Comments, RESA will address the following three issues: 1) the procurement plan for renewable resources, addressed in the Initial Comments of Iberdrola Renewables, Inc. ("Iberdrola"); 2) the timing of the procurement process, addressed in the Initial

[1] RESA's members include Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings, LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC); PPL EnergyPlus, LLC; Reliant Energy Northeast LLC; and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

Comments of Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. ("Constellation"); and 3) the manner in which the winning bids for Commonwealth Edison Company tracked the wholesale electricity market, as addressed in the Initial Comments of the Illinois Attorney General ("AG").

II. RESPONSE TO IBERDROLA

Iberdrola claims that the IPA's reliance on one-year renewable energy credits ("REC") will not achieve the objectives of the Illinois Power Agency Act (IPAA). Instead Iberdrola recommends that the IPA should move to a portfolio-based approach which includes a mix of longer and medium-term REC procurements along with some short-term and spot-market purchases, as well as long-term bundled contracts for energy and RECs. (Iberdrola Initial Comments, p. 3) Iberdrola made the same arguments in Ill. C. C. Docket 10-0563 and those arguments were rejected by the Commission; the Commission approved the IPA's proposal to include in the 2011 Plan the acquisition of only unbundled one-year RECs with no long-term renewable energy contracts. The Commission found that the IPA's proposal met the requirement of Section 1-75 (c) (1) of the IPAA of including cost-effective renewable energy resources. (Order in Docket 10-0563, dated December 21, 2010, p. 83)

During the proceeding in Ill. C. C. Docket 10-0563, the IPA successfully defended its use of one-year RECs, noting that average prices for REC's had dropped from $30, to $20, to $4.50 in three years. The IPA noted that those prices indicate that there is a significant oversupply in the renewables market in Illinois. The IPA further noted that with the Illinois preference dissolving, it expects the over-saturated REC market to allow low compliance costs for the RPS throughout the medium term. Iberdrola actually demonstrates the validity of the

IPA's argument in its Initial Comments when it notes that the price of one-year RECs for the 2011 Plan went down to $1.05. (Iberdrola Initial Comments, p. 5)

While obviously conceding the short-term benefit of the use of one-year RECs, Iberdrola argues that continued reliance on one-year RECS as the sole or primary means for RPS compliance will strongly diminish new renewable energy investment required to meet Illinois' increasing renewable energy requirements. (*Id*., p. 7) This argument is contradicted by the Commission's recent (June 2011) Report to the Illinois General Assembly Concerning Spending Limits on Renewable Energy Resource Procurement. That Report, submitted pursuant to the requirements of Subsection 1-75 (c) of the IPAA concluded that renewable energy resource generating capacity has been on the rise (and renewable energy prices have been on the decline) and that the Commission finds that there are factors favoring the continued development of renewable energy resource generating capacity. (ICC Report, pp. ii; 20)

III. <u>RESPONSE TO CONSTELLATION</u>

Constellation noted that many of the 2011 procurements took place several weeks later than those same procurements in the past. In fact, they were the latest since the creation of the IPA in 2007. That timing contributed to approved utility tariffs regarding new rates being made available by Commonwealth Edison Company ("ComEd") only one day before those rates went into effect. (Constellation Initial Comments, p. 14)

RESA agrees with Constellation that delays in the release of utility tariffs and charges cause substantial confusion and competitive harm in the retail market. RESA agrees with Constellation's proposed solution—to the extent that procurements are to occur in the same year as the start of the new June-May cycle, the procurement events should be held in late February or early March. This will benefit suppliers and their customers. RESA also agrees with

Constellation that future Commission orders approving the IPA Plans should establish schedules that permit calculation of new rates sufficiently in advance of their effective dates and require that utilities file and make available approved tariffs and charges no less than two weeks before the new rates would go into effect. (*Id*., pp. 14-15)

IV. RESPONSE TO ATTORNEY GENERAL

In its Initial Comments, the Attorney General ("AG") states that the winning bids for ComEd closely tracked the prices in the wholesale electricity market and that the IPA's procurement for ComEd benefits consumers. (AG Initial Comments, pp. 1-2) Although the AG provides graphs that indicate that the IPA's 2011 procurement provides consumer savings in comparison with the NYMEX futures market, these graphs only show a "snapshot" view of future energy and capacity prices. That is, the NYMEX futures market is simply a current market forecast as to what the actual market prices will be many months, and up to a year into the future. Actual electricity prices, both on-peak and off-peak, could be higher or lower than those presently shown in the NYMEX futures market. As a result, real electricity market prices for each month will undoubtedly be different from those currently shown by the NYMEX futures market, and therefore, any once-a-year procurement event will produce greater variances between actual and projected market conditions the further out those projections are made. RESA believes that it is far better to have more frequent procurement events which would reduce the time frame inherent in a 12-month market projection.

The IPA itself acknowledged this in its Initial Plan. The IPA, in its Initial Plan, filed in Ill. C. C. Docket 08-0519, stated:

> Another method to achieve lowest total cost and price stability is to increase the frequency of procurement events. The IPA believes that a single annual procurement event increases portfolio risk by relying on market timing and by increasing the potential

> for bidders to exercise market power. To mitigate these risks, the IPA recommends more frequent and smaller volume entries into the market by transitioning to multiple procurement cycles and, eventually to a continuous procurement cycle. (Initial Plan, p. ii).

The IPA reiterated this position later in its initial plan:

> A single annual procurement increases risk to the Portfolio because price risk is minimized by more frequent and smaller volume entries into the market. Additionally, single annual procurements increase the potential for bidders to exercise some level of market power depending on market conditions.
>
> To mitigate these risks, the IPA recommends that procurement events occur more frequently than once per year. A likely method for managing such a schedule would be to migrate to multiple overlapping quarterly procurement cycles and eventually to implement a continuous procurement cycle. (Initial Plan, p. 15)

However, the Plan filed in Docket 10-0563, the third procurement plan prepared by the IPA, did not make any progress toward a transition to multiple procurement cycles. While the Commission's Office of Retail Market Development ("ORMD") offered to take the lead in addressing this issue, the Commission's Order did not direct that this effort take place. (Order in Ill. C. C. Docket 10-0563, p. 106).

There are many methods that can be used to implement a multiple procurement structure, including having the current once-a-year approach broken down into four phases, with potential bidders electing at the first phase which of the four procurements in which to take part. This would prevent the IPA from having to conduct the same participant application and screening process four times, thus needlessly adding to the IPA's administrative burdens. Obviously, other additional steps can be taken to reduce the additional burden caused by multiple procurement events, and those too should be considered. RESA believes that it would useful for the ORMD to commence a workshop designed to evaluate varying approaches to a multiple procurement approach and asks the Commission to direct that that be done.

The IPA should move toward multiple procurement cycles for the following reasons. Generally, utility default service procurement should result in market reflective price signals. Continued progress toward a competitive electric market is the best way to help all consumers balance price risk and budget certainty while also providing innovative and customer-driven value-added services. Successful retail competition will produce downward pressure on price, offer a variety of product options for end use customers, increase conservation incentives, enhance customer service, improve environmental management and hasten the introduction of new, innovative products. Retail energy competition requires that default service pricing be properly structured; consumers must see a default price for electricity that reflects the actual market price of the electricity they consume.

RESA recognizes that in addition to more frequent procurement events, there are other mechanisms that can be considered to make current default service more market reflective. For example, the current weighting[2] of the three-year blended contracts could be changed so that heavier weight is placed on the current energy year; or, rather than using three-year blended averages, shorter contract terms, such as 6, 12, and 18 month blended terms could be utilized. RESA believes the ORMD workshop (recommended above) should allow for any concepts that would lead to more market reflective pricing in the marketplace.

Specifically, the failure of long-term procurement contracts to reflect current wholesale

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[2] 35% of projected energy needs procured two years in advance of the year of delivery.
35% of projected energy needs procured one year in advance of delivery.
30% of projected energy needs procured in the year in which power is to be delivered.
Final Order 10-0563 Illinois Power Agency Petition for Approval of Procurement Plan, December 21, 2010

market prices creates inefficiencies in either direction. In the event that the company's procurement costs are higher than those available in the wholesale market, then customers are harmed by having to pay higher than market prices. In the event that wholesale market prices rise above the locked in utility costs, customers will receive incorrect price signals that distort the market and give rise to the following unintended harmful consequences: 1) a belief that energy is less expensive than reality, leading to potential over-consumption; 2) discouraging energy efficiency investment by under-valuing avoided costs; and, 3) the risk of rate shock as those contracts end. In all of these instances, customers will be harmed.

The use of more frequent procurement events would enable the procurement of shorter-term contracts which could be procured closer in time to actual delivery of the supply. The use of shorter term contracts procured closer in time to the date of delivery will enable customers to see a default price that better reflects prevailing market prices and will minimize long term contract hedging premiums that are associated with longer term contracts procured far in advance of delivery. Better price signals will spur more thoughtful efficiency investments, wise energy usage, and spur development of the competitive market. Better accuracy reduces customer costs over the long term. A major benefit of having default prices reflect the market is that consumers who are on those default rates will be sent clearer price signals that, in turn, will cause more efficient energy usage.

Under the IPA's current three-year laddered approach, the time period between procurement and delivery of energy is too great. RESA's approach would provide multiple forecasts and multiple procurement events that would achieve the significant benefits described above.

V. CONCLUSION

RESA thanks the Commission for the opportunity to submit these Reply Comments.

Respectfully submitted,

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